Remarks

This is in response to the Office Action dated June 17, 2004.

In response to the Examiner's object to the drawings, enclosed is an amended drawing sheet for Figures 2 and 3. Reference numerals 33-35 have been changed to 23-25 to conform with the nomenclature used in the specification. The specification has been amended to include reference numbers 36 and 38 and to correct typographical errors.. No new matter has been added.

In the Office Action, the Examiner has rejected claims 1-16, 26-28, 30-56, 64 and 66-75 under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 5,781,550 to Templin, et al. ('550 patent) , and has rejected claims 17-23, 29, 57-63 and 65 under 35 U.S.C. §103(a) as obvious over the '550 patent in view of U.S. Patent No. 5,774,660 to Brendel ('660 patent).

Claims 1 and 53 are the only independent claims in this application. As applicant believes that there are clear differences between these independent claims and the cited prior art, applicant will focus its comments herein on claims 1 and 53. Applicant respectfully reserves the right to separately argue the patentability of the dependent claims in response to any further office action.

Claim 1 recites, in pertinent part:

1. A network of hosts constructed and arranged for the transfer of digital information between the hosts comprising:
a source host;
a destination host;
a collaborating host; and,
a management object constructed and arranged to facilitate collaboration between the source host and the collaborating host in transferring data between the source host and the destination host, wherein the source host provides necessary control information and/or message contents when there is a need based on network

> information, and the collaborating host sends the data to the destination host in such a way as to make the destination host believe the data is from the source host.

According to the Examiner, the '550 patent discloses the claimed source host, destination host, and collaborating host, but fails to disclose the claimed management object. The Examiner goes on to assert that:

> [the 550 patent] discloses a gateway that intercepts a packet destined for host C from host A. The gateway generates a new packet and sends it to host in which host C believes it is communicating with host A (col. 8, lines 37-54).
>
> Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a management object to transfer data between the source host and destination host in such a way as to make the destination host believe the data is from the source host in order to provide a secure network because this would allow the hosts to communicate and exchange information, thereby providing a strong security within the network. Office Action, p. 3.

Applicant respectfully disagrees. The '550 patent discusses:

> a computer implemented method and apparatus for communicating packets between a trusted computer and an untrusted computer connected by a gateway. . .
>
> The gateway receives a packet having a source address of the trusted computer, a destination address, and a first payload. The packet, according to rules stored in a configuration database, is intercepted and diverted to a proxy server of the gateway if the destination address references an untrusted computer. The proxy server extracts the payload from the packet, and generates a new packet having **a source address of the gateway**, the destination address of the untrusted computer, and the payload. As an advantage of the invention, this enables the trusted computer to securely communicate with the **untrusted** computer.
>
> The **untrusted** computer sends a response packet having the source address of the untrusted computer, **a destination address of the gateway**, and a second payload. The gateway receiving the response packet, sends a packet having the source address of the untrusted computer and a destination address of the trusted computer and the second payload. . . . '550 patent, col. 3, lines 13-34

As such, when the "trusted computer" communicates with the "untrusted computer", the "trusted computer" corresponds to the claimed "source host", the gateway corresponds to the claimed "collaborating host" and the "untrusted computer" corresponds to the claimed "destination host." As the Examiner concedes, the system of the '550 patent does not "send[] the data to the destination host in such a way as to make the destination host believe the data is from the source host". Rather, the destination host (allegedly the untrusted computer of the '550 patent) believes it is communicating with the gateway. As such, when the trusted computer communicates with the untrusted computer, the '550 patent fails, at the very least, to disclose the claimed management object.

When the "untrusted computer" sends its response packet, the "untrusted computer" corresponds to the claimed "source host", and the gateway corresponds to the claimed "destination host" because the untrusted computer intends to communicate with the gateway and is unaware of the existence of the trusted computer. As such, when the untrusted computer allegedly acts as the source host, the system of the '550 patent fails to disclose either the collaborating host or the claimed management object.

Therefore, since the "untrusted computer" of the '550 patent never learns of the existence of the "trusted computer", the system of the'550 patent cannot provide the claimed management object. The Examiner appears to agree, but contends that it would have been obvious to modify the '550 patent to "make the destination host believe that the data is from the source host" to provide "strong security within the network."

In assessing the prior art, "[i]t is insufficient to establish obviousness that the separate elements of the invention existed in the prior art, absent some teaching or suggestion in the prior art, to combine the elements." Ruiz v. AB Chance Co., 234 F.3d 654 (Fed. Cir. 2000) (quoting Arkie Lures, Inc. v. Gene Larew Tackle, Inc., 119 F.3d 953 (Fed. Cir. 1997)). Moreover, the

prior art must be viewed as a whole, including suggestions both towards and away from the claimed invention. See Bausch & Lomb v. Barnes-Hind/Hydrocurve, 230 U.S.P.Q 416 (Fed. Cir. 1986); In re Haruna, 58 U.S.P.Q.2d 1517 (Fed. Cir. 2001). In this case, it is respectfully submitted that the '550 patent clearly teaches away from the invention as claimed. The '550 patent reads, at col. 8, lines 43-47:

> The inventive interchange of packets is illustrated in FIG. 5 . . . Trusted host A 150 generated s a packet [A⇨C] 501 destined for untrusted host C 160. The gateway B 300 intercepts the packet 501, and recognizes the packet 501 as a foreign packet. The packet 501 is consumed, and the gateway B generates a new packet [B⇨C] 502. **Host C,** believing it is communicating with a "host," generates a packet [C⇨B] 503 in response, and **never learns of the existence of host A 150. Hence, the gateway is secure**. (Emphasis added)

As such, the '550 patent teaches that the means by which network security is ensured is by hiding the existence of the trusted computer from the untrusted computer. Therefore, there can be no suggestion in the '550 patent to "make the destination host believe the data is from the source host" to provide "strong security" because the '550 patent teaches that hiding the existence of the source host from the destination host is critical to providing security in the network.

For these reasons, it is respectfully submitted that claim 1 is not obvious over the '550 patent, and withdrawal of the Examiner's rejection of claim 1 is respectfully requested. As claims 2-16, 24-28, and 30-52 depend from and incorporate the limitations of claim 1, withdrawal of the Examiner's rejection of these claims is requested as well.

Dependent claims 17-23, and 29 stand rejected as obvious over the '550 patent in view of the '660 patent. As the '660 patent has been cited solely for its alleged disclosure of the additional limitations recited in these dependent claims, it cannot cure the deficiencies in the '550 patent described above, and the Examiner's rejection is overcome. Withdrawal of the

Examiner's rejection of claims 17-23, and 29 is therefore also requested.

Claim 53 recites, in pertinent part:

> 53. A method of communicating over a network comprising the steps of:
> obtaining network information;
> sending data intended for a destination host, from a source host to a collaborating host as a function of the network information;
> facilitating collaboration between the source host and the collaborating host;
> sending the data to the destination host from the collaborating host so that the destination host believes the data came from the source host.

As such, similar claim 1, claim 53 requires that the "destination host believes the data came from the source host." Therefore, for the reasons set forth above with regard to claim 1, it is respectfully submitted that claim 53 is not obvious over the '550 patent, and withdrawal of the Examiner's rejection of claim 53 is respectfully requested. As claims 54-56, 64, and 55-75 depend from and incorporate the limitations of claim 53, withdrawal of the Examiner's rejection of these claims is requested as well. Dependent claims 57-63, and 65 stand rejected as obvious over the '550 patent in view of the '660 patent. As the '660 patent has been cited solely for its alleged disclosure of the additional limitations recited in these dependent claims, it cannot cure the deficiencies in the '550 patent described above, and the Examiner's rejection is overcome. Withdrawal of the Examiner's rejection of claims 57-63, and 65 is therefore also requested.

Reconsideration and allowance of the present application is therefore requested.

Respectfully submitted,

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